

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

MOSE LEE SUDDUTH, JR.

PLAINTIFF

VS.

CAUSE NO. 1:18-CV-051-SA-DAS

**LOWNDES COUNTY, MISSISSIPPI; ROGER
COLEMAN; and NORTH ATLANTIC SPECIALTY
COMPANY**

DEFENDANTS

**MOTION TO DISMISS OR GRANT SUMMARY JUDGMENT AS TO
STATE LAW CLAIMS ON IMMUNITY GROUNDS**

NOW COMES DEFENDANT LOWNDES COUNTY, by Counsel, respectfully moves this Court to dismiss the instant Complaint with prejudice as to claims arising under state law pursuant to Rule 12(b)(6) or, alternatively Rule 56, *Fed. R. Civ. Proc.*

1) Pursuant to *Scott v. Harris*,¹ the incident between Defendant Coleman and Plaintiff Sudduth is depicted on video.² [*To be conventionally filed herewith*]. Sudduth rudely burst past Coleman in civilian clothes brushing off the attempt to secure compliance stating “*I’m a lawyer*” as if special status applied to him. When Coleman insisted on doing his job, it was revealed that Sudduth was carrying a weapon. When Sudduth refused to leave without his weapon, Coleman removed him by force.

2) The Complaint [1] correctly notes that Mr. Coleman is an employee of an independent

¹*Scott v. Harris*, 550 U.S. 372, 380 (2007)(“When opposing parties tell two different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on the motion for summary judgment.”).

²Exhibit A - Videos (in sequential order of entrance/exit area and clerk window area, April 13, 2017).

contractor. *Id.* at ¶1. The Complaint alleges no set of facts which would indicate Mr. Coleman was a known threat, nor will that be evident from his professional attempts to secure compliance from Plaintiff Sudduth. The Complaint alleges intentional torts as to Mr. Coleman. *Id.* at ¶32.

3) There is no genuine issue of material fact subject to dispute which would prevent a finding of immunity and summary judgment under the provisions of the Mississippi Tort Claims Act, *Miss. Code Ann.* §11-46-1, et seq.

4) **BRIEFING:** In accord with *Uniform Local Rule 7(b)*, this Defendant is filing a brief of supporting authorities herewith.

NOW, THEREFORE, this Defendant respectfully moves this Court to dismiss the instant Complaint with prejudice as to claims arising under state law pursuant to Rules 12(b)(6) & 56, *Fed. R. Civ. Proc.*

RESPECTFULLY SUBMITTED this the 27th day of April, 2018.

JACKS | GRIFFITH | LUCIANO, P.A.

By: /s/ Daniel J. Griffith
Daniel J. Griffith, MS Bar No. 8366
Attorney for Defendant Lowndes County

Of Counsel:

JACKS | GRIFFITH | LUCIANO, P.A.
150 North Sharpe Street
P. O. Box 1209
Cleveland, MS 38732
Phone No. 662-843-6171
FAX No. 662-843-6176
Email: dgriffith@jlpalaw.com

CERTIFICATE OF SERVICE

I, Daniel J. Griffith, attorney of record for Defendant Lowndes County, do hereby certify that I have this day caused a true and correct copy of the above and foregoing *MOTION TO DISMISS STATE LAW CLAIMS ON IMMUNITY GROUNDS* to be delivered by the ECF Filing System which gave notice to the following:

Jeffery M. Navarro
Attorney at Law
P. O. Box 162
Amory, MS 38821
Phone: 662-256-3706
Phone: 662-315-7797
Fax: 662-749-7001
jeffnavarro53@att.net
Attorney for Plaintiff

DATED this 27th day of April, 2018.

/s/ **Daniel J. Griffith**

Daniel J. Griffith